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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
2003-0113	

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Application Number	Filed
10/800,106	March 12, 2004
First Named Inventor	
Salman Yousef Abbasi	
Art Unit	**Examiner**
2464	Ben H. Liu

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____.

☑ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 54,754

/Steven M. DiPasquo/
Signature

Steven M. DiPasquo
Typed or printed name

973-530-2076
Telephone number

September 10, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Application No.	:	10/800,106	Confirmation No.	8930
Applicants	:	Salman Yousef Abbasi et al.		
Filed	:	March 12, 2004		
Group Art Unit	:	2464		
Examiner	:	Ben H. Liu		
Docket No.	:	2003-0113		
Title	:	Method and Apparatus to Manage Network Addresses for Private Voice Communications		

ARGUMENTS ACCOMPANYING
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Please consider the following arguments in connection with the Pre-Appeal Brief Request for Review being filed concurrently herewith:

I. Introduction

Concurrent with the filing of a Notice of Appeal, and in accordance with OG Notice of 12 July 2005, describing the Pre-Appeal Brief Conference Pilot Program, a pre-appeal brief request for review of the rejections stated in the final Office Action mailed June 10, 2010, in the above-identified application is submitted herewith. No amendments are being filed with the request or the arguments in support of the request.

The final Office Action dated June 10, 2010 rejected claims 1-6 and 8-17 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2005/0190775 (Tonnby) in view of U.S. Patent No. 5,590,285 (Krause). The Office Action rejected claims 18 and 20 under 35 U.S.C. §103(a) as being unpatentable over Tonnby and in view of Krause, and further in view of U.S. Patent No. 5,835,725 (Chiang).

The Examiner has erred in rejecting independent claims 1, 10, and 18, and review of the grounds for rejection of the claims by the pre-appeal brief review panel is respectfully requested.

II. Rejections under 35 U.S.C. § 103

The Examiner clearly errs in rejecting independent claims 1 and 10 under 35 U.S.C. §103 as being unpatentable over Tonnby in view of Krause.

The Examiner erred in asserting that the combination of Tonnby and Krause teaches "receiving, at a media access controller (MAC), a first request for a connection from a requesting agent, the first request having a quality of service parameter indicating one of a multimedia connection and a data connection."

Tonnby is directed to an access system for relating communication service providers and application service providers to users. The Examiner asserts that Tonnby discloses "receiving, at a media access controller (MAC), a first request for a connection from a requesting agent, the first request having a quality of service parameter," but admits that Tonnby does not disclose "wherein the QoS parameter of the first request specifically indicates one of a multimedia connection and a data connection. (Office Action, page 4). The Examiner relies on Krause to cure this admitted deficiency of Tonnby. However, the Examiner fails to indicate any portion of Krause that discloses a request having a quality of service parameter that indicates one of a multimedia connection and a data connection.

Krause is directed data link layer (DLL) devices with multiple MAC addresses instead of a single MAC address. Although Krause describes "[b]y using a separate unique MAC address and data channel for the multi-media module of a computer, video and audio data can be processed without software overhead, greatly reducing latency," there is no description in Krause of any request including a quality of service parameter indicating one of a multimedia connection and a data connection. Therefore, the combination of Tonnby and Krause does not teach or suggest "receiving, at a media access controller (MAC), a first request for a connection from a requesting agent, the first request having a quality of service parameter indicating one of a multimedia connection and a data connection," as recited in independent claim 1.

The Examiner further erred in asserting that the combination of Tonnby and Krause teach "retrieving the quality of service parameter from the first request". The Examiner admits that Tonnby does not disclose "retrieving the quality of service parameter from the first request," but asserts that Krause cures this admitted deficiency of Tonnby. (Office Action, page 4). At page 4 of the Office Action, the Examiner asserts that Krause "discloses a network station with multiple network addresses…The station uses a separate, unique MAC address and data channel for multi-media connection including video and audio data." However, the Examiner does not indicate any portion of Krause that describes retrieving a quality of service parameter that indicates one of a

multimedia connection and a data connection from a received request. There is no description Tonnby or Krause of the retrieval of a quality of service parameter that indicates one of a multimedia connection and a data connection from a received request. Therefore, the combination of Tonnby and Krause does not teach or suggest "retrieving the quality of service parameter from the first request," as recited in independent claim 1.

Furthermore, the Examiner errs in asserting that the combination of Tonnby and Krause teaches "sending to a dynamic host configuration protocol (DHCP) server a second request for one of a plurality of network addresses using one of first and second MAC addresses associated with the MAC based on the quality of service parameter," "sending the second request for a first network address using the first MAC address if the quality of service parameter indicates the multimedia connection," and "sending the second request for a second network address using the second MAC address if the quality of service parameter indicates the data connection".

As discussed in the Amendment filed March 11, 2010, the dynamic MAC addresses in Tonnby are not allocated based on a quality of service parameter contained in a request received from a requesting agent. Tonnby recites "[t]he quality of service for the relations are deicided [sic] in agreements and are denoted for each relation in the register REG1 in FIG. 5. This is exemplified by a quality of service Q having a level QoS1 denoted on the list L11 for the relation R11, which relation is defined by the service agent MAC address SAMAC1" (paragraph [0084]). However, the relation defined by the MAC address is the relation between the service agent and a user (paragraphs [0058] and [0059]). Based on an agreement with the user, a quality of service is known for each user. Accordingly, in Tonnby, the MAC address is used to identify the user, which identifies the quality of service. In Tonnby, the MAC address is not selected based on a quality of service parameter contained in a request. In the "Response to Arguments" section of the Office Action, the Examiner argues that "in Tonnby, the user selects a service from the available service provides, and the administrative unit AD1 allocates a SAMAC address based on the selected service…Further, the selected services are associated with bandwidth and QoS attributes…Since the SAMAC is chosen based on the selected service, which in turn is defined by QoS attributes, the allocated SAMAC is chosen based the quality of service as recited in the claim." This logic is flawed. Even if the SAMAC address is chosen based on a selected service and that service has QoS attributes, this does not mean that the

SAMAC address was chosen based on quality of service. Moreover, claim 1 recites that the second request be sent using one of first and second MAC addresses "**based on the quality of service parameter**". Accordingly, claim 1 requires that the determination of one of the first and second MAC addresses be based on a quality of service parameter contained in the first request that indicates one of a multimedia connection and a data connection. Even if the Examiner's argument that the SAMAC of Tonnby is selected based on quality of service were correct, there is no description in Tonnby of the SAMAC address being selected based on a quality of service parameter contained in a request received from a requesting agent. Therefore, Tonnby does not teach or suggest "sending to a dynamic host configuration protocol (DHCP) server a second request for one of a plurality of network addresses using one of first and second MAC addresses associated with the MAC based on the quality of service parameter," as recited in independent claim 1. Krause does not cure the deficiencies of Tonnby with regards to this limitation.

The Examiner admits that Tonnby does not disclose "sending the second request for a first network address using the first MAC address if the quality of service parameter indicates the multimedia connection" and "sending the second request for a second network address using the second MAC address if the quality of service parameter indicates the data connection". The Examiner relies on col. 25, lines 25-60 and Figs. 15-16 of Krause as disclosing these limitations. As discussed in the Amendment of March 11, 2010, the cited portion of Krause describes assigning different MAC addresses to a multimedia module and a CPU module handle multimedia data and other data, respectively, received on dedicated respective lines. In the "Response to Arguments" section of the Office Action, the Examiner correctly states that "multimedia data for the multimedia module is supplies on line 828 and other data is supplied on line 829." The Examiner then incorrectly concludes that "dividing data between MAC addresses associated with the multimedia module or the main CPU" means that "a first MAC address is used if the QoS indicates a multimedia connection, and a second MAC address is used if the QoS indicates a data connection". In Krause, the multimedia module receives data on one line and assigns all data received on the line the MAC address of the multimedia module. The CPU receives data on another line and assigns all data received on that line the MAC address of the CPU. The MAC address is determined based on which module receives the data. In other words, all data received on line 828 is assigned

one MAC address and all data received in line 829 is assigned another MAC address. There is no description of any quality of service parameter indicating one of a multimedia or data connection. This is not needed because there is a dedicated line for multimedia data and a dedicated line for other data. Accordingly, the decision of which MAC address to assign incoming data is based purely on the line on which the data is received or the module at which the data is received, not based on a quality of service parameter contained in a received request that indicates one of a multimedia connection and a data connection. Therefore, the combination of Tonnby and Krause does not teach or suggest "sending the second request for a first network address using the first MAC address if the quality of service parameter indicates the multimedia connection" and "sending the second request for a second network address using the second MAC address if the quality of service parameter indicates the data connection," as recited in independent claim 1.

Thus, for the reasons discussed above, independent claim 1 is allowable over the cited art. Independent claim 10 is allowable for similar reasons. Chiang does not cure the deficiencies of Tonnby and Krause, as described above. Therefore, independent claim 18 is allowable over the cited art for similar reasons to those described above in connection with independent claim 1. All dependent claims depend upon an allowable independent claim and are therefore also allowable.

III. Conclusion

For the reasons discussed above, all pending claims are allowable over the cited art. Allowance of the presently pending claims by the panel of Examiners participating in this pre-appeal brief conference is respectfully requested in order to spare all parties involved the added time and expense of proceeding with the Appeal.

Respectfully submitted,

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Date: September 10, 2010